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THE CASE

OF SOME OF THE
ADVENTURERS

AND

PARTICIPANTS

With the Right Honourable *William* Earl
of *Bedford* in the draining of the great Level
of the Fens stated, in reference to a Bill de-
pending in Parliament for settlement of the
said Draining.

BY a Law of *Sewers* made at *Lynne*, Anno Dom. 1630.
and in the 6th year of his late Majesties Reign, The
Right Honourable *Francis* late Earl of *Bedford* be-
came undertaker for Draining the said Great Le-
vel within 6 years, and was to have 95000 Acres for his
Recompence.

In the same Law the Commissioners therein named be-
sought his Majesty to accept of 12000 Acres, (part of the
95000 Acres) to be conveyed from the said *Francis* Earl of
Bedford, and his Heirs.

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The said Earl took in several other persons or Participants and Adventurers with him in his undertaking, and together with them prosecuted the work; and in or about the year 1636. the Commissioners of Sewers then sitting at *Peterborough* adjudged the 95000 Acres unto the said Earl and Participants.

That the said *Francis* Earl of *Bedford* made tender to his Majesty of a Deed purporting a conveyance thereof from the said Earl to his Majesty and Successors; But his Majesty was not pleased to accept thereof, so that there was never any Conveyance of it.

In the year 1638. a Commission of Sewers sate at *Huntingdon*, and upon inquiry into the Earl of *Bedford's* draining, the Commissioners did declare That the said great Level was not perfectly drained, and that the Countrey ought to repossess their Lands, and set on foot a new draining, wherein the King was declared sole undertaker, and the Commoners of each County, and owners of severals, enter upon their Lands and possess themselves as well of the 12000 Acres, as of the residue of the 95000 Acres.

The King begins the work as sole undertaker; and *Anno* 1639. gives it over again. In the year 1641. the said Earl and Participants apply to the then Parliament, and had their Case committed. In 1644. the Country then in possession of their Land petitioned for the Earl of *Bedford's* draining, and thereupon, and upon the prosecution of the said Earl and Participants, a pretended Act is obtained in the year 1649. whereby the 95000 Acres were decreed to *William* Earl of *Bedford*, Son and Heir of the said *Francis*, and Participants, as their recompence for draining the said great Level, which they were to effect and bring to perfection within 6. years, and enjoined them to make it winter ground and fit for Tillage; whereas by the first undertaking

king they were onely obliged to make it Summer ground and fit for pasture.

For raising money to begin the work, They propounded to dispose of several parcels of the 95000 Acres, and amongst the rest 10000 Acres of the said 12000 Acres, and did afterwards contract with the present owners thereof for the same at 40 s. an Acre. The money amounting in the whole to 20000 l. was paid into the Treasurer of the Company of Adventurers within four Moneths after the Contract, and all laid out and expended that Summer, as was agreed upon the first Contract, in making Banks, Rivers, Stucces, and other works for draining of the said great Level. The other Adventurers raising upon the residue of the 95000. Acres no more then 2 s. 6 d. an Acre for that time.

That this sum of money thus advanced gave the first life to this work, and was (as the said Adventurers then acknowledged) the foundation of their credit, whereby they raised further sums of money for the future carrying on the said undertaking.

That over and above the said 40 s. an Acre, the present Owners have since that paid in Taxes and Sesses laid upon the said 10000 Acres, for draining and preserving the said Level, near 10000 l. more, and further disbursed many great sums of money, in haffaking, ditching, planting, building upon, and other ways improving the said Lands.

That by the Contract aforesaid the present Owners of the said 10000 Acres became Adventurers and Participants with the said Earl, to all intents and purposes, equally with any others, who were before interested in the said undertaking, and were as one Company and Common Body to mannage the whole, and to participate each with other in gain and loss, according to their severall respective Interests and proportions.

That a very considerable quantity of the 10000 Acres is forfeited to his Majesty by the attainder of some of the persons interess'd therein.

That the said Adventurers have prepared a Bill to be tendered to the Parliament for settling the said work of draining, by the purport whereof the 10000 Acres is to be disposed from the present Owners thereof, as that which is thought necessary to be done for the good of the whole work.

That in the said Bill no provision being made for satisfying those Adventurers and Participants who are interess'd in the said 10000 Acres, for the great sums of money they have expended as aforesaid, in and upon the works of draining; they represented the Justice and Equity of their Case upon the grounds aforesaid to their Fellow Participants and Owners of the Residue of the 95000 Acres at the general Meetings of the Company; and not being willing to interrupt the passing of the Bill, in reference to the whole work, or to the disposing of the 10000 Acres in such manner as was propounded therein; they demanded only the re-imbursement of the 40 s. an Acre, with such other sums of money as have been since assessed upon the 10000 Acres, and paid by the said Owners for draining and conserving the said great Level; and hoped that their said Fellow-Adventurers and Participants would have complied herewith as a most moderate proposition, and below that which might have been insisted upon, considering the miscarriage of all former undertakings, and in that and other respects the vast hazard they ran in the disbursing so great a sum of money in the infancy of the work, with the great benefit and advantage the whole Company reaped thereby.

But the said other Adventurers though they do and must confess the receipt of the aforesaid sums of money, and the expending thereof upon those works, whereby the whole Level is drained and defended, and in respect where-
of.

of they expect and demand their recompence, and the equitableness of this Case in the other points before mentioned, do notwithstanding endeavour to put this burden, that ought to lye upon the whole Company, upon some particular Members thereof.

The said owners therefore are necessitated to apply themselves to the Honourable House of Commons, and to appeal to their Justice, humbly Praying, That before the passing of the said Bill, to take this their Case into Consideration, wherein they humbly conceive these things are most manifest.

1. That the Earl and other Participants have no better nor other Title, or pretence of Title in Law, to the Residue of the 95000. Acres, then they had to the 10000. Acres.

2. And as to the Equitable Title upon the account of the money extended by them in and about the works of draining; the said other Participants Owners of the said 10000 Acres, have therein the same Equity with them, or rather greater, at least in respect of their hazard, having advanced 40 s. an Acre at the first Entrance upon the works, when the other Adventurers disbursed but 2 s. 6 d. an Acre for their proportions.

3. That all the said Adventurers, as well the Owners of the 10000 Acres, as the said Earl and other Participants, standing thus upon the same Bottom, both in Law and Equity, The Parliament who is now applyed to for the settlement of the whole, in Case they shall judge it fit to settle 10000 Acres in the manner propounded in the Bill, may settle any other 10000 Acres in the possession of any other of the Adventurers as well as this now in question, There being nothing in Law or Equity, nor indeed in Interest, why the one should not be done as well as the other; And in case the Parliament should be of opinion to do so, or to take part of this land, and part of the other 85000 Acres,
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to make up the 10000 Acres, those Gentlemen from whom any proportions of Land should be taken, would think themselves hardly dealt with (as they might) in case this loss should be wholly left upon their particulars, and not put upon the whole Company; There is the same reason, and therefore Justice, in case the Parliament shall think fit, that this individual 10000 be taken, that the burthen thereof be laid upon the whole Company.

4. That the King having the Interest of the persons attainted, who were owners of a considerable quantity of the 10000 Acres, if this money be not reimbursed, His Majesty will lose a very considerable sum of money, which was disbursed upon the works of draining, by those persons, in reference to their proportions in the 10000 Acres, the benefit whereof ought to accrue to His Majesty, and not to the Adventurers.

That therefore which is humbly prayed upon this Case is, *That if the said 10000 Acres, or any part of it be settled from the present owners, That effectual provision may be made in the same Act, for their being reimbursed the money paid and expended by them, as is before expressed.*

These

These are the names of the Persons who conveyed the 10000. Acres to the present Owners, and were the cheif persons who procured the pretended Act in 1649. and managed the Works of Draining.

William Earl of Bedford.
Edward Russel, Esq;
Richard Lord Gorges.
Sir Miles Sandys.
Sir Edward Partridge.
Thomas Thynn Esq;
Robert Henley Esq;
Isaack Jones Esq;
John Latch Esq;

John Fountain, Serj. at Law.
William Crane Esq;
Sir John Marsham.
Anthony Hamond Esq;
Robert Castle Esq;
John Carryl Esq;
Robert Wigstead.
William Dodson,
Thomas Brown.

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These are the names of the Persons who
conveyed the 10000 Acres to the
present Owners and were the chief persons
who procured the pretended Act in
1722, and managed the Works of
Drainage.

John Foulke, Esq; at Law.	William Hall of Bedford.
William C. the Elder	Edward Ruff E. d.
Sir John Marshall	Richard Lord Gages.
Anthony H. the Elder	Sir Miles Sandys.
Robert C. the Elder	Sir Edward Pym.
John C. the Elder	Thomas Thynne Esq;
Robert W. the Elder	Robert Harley Esq;
William D. the Elder	Isaac Jones Esq;
Thomas A. the Elder	John Lamb Esq;

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